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April 18, 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re/ application of Daniel O'Mahony
and Imelda Lambkin
Application No. 10/764,235
Filed January 23, 2004

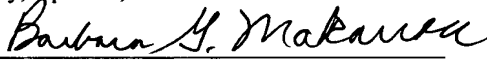
Examiner S.K. Snedden
Art Unit 1653
Confirmation No. 8285

Membrane Translocating Peptide Drug Delivery System

(Atty. Docket No. P26,479-A USA)

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on Monday, April 18, 2005.


Barbara G. Makariou

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Reply to Examiner's Requirement for Restriction
Election, As Set Forth in the Action Dated February 16, 2005

Sir:

In response to the Examiner's Requirement for Restriction, as set forth in the Action dated February 16, 2005, applicants elect hereby to prosecute the claims of Group I, that is, Claims 1 to 6. Applicants confirm their right to file a divisional application which includes the non-elected claims (Claims 7 to 11).

In addition, the Office Action includes also an additional requirement of election of peptides to which the claims must be restricted. Applicants elect hereby SEQ ID NO:24.

Applicants traverse respectfully the Restriction Requirement and request that in addition to SEQ ID NO:24, SEQ ID NO:23 also be examined.

The Examiner's attention is directed to MPEP §803, which states (emphasis added):

If the search and examination of an entire application can be made **without serious burden, the examiner must examine it on the merits,** even though it includes claims to independent or distinct inventions.

There are two criteria for a proper requirement for restriction between patentably distinct inventions:

(A) The inventions must be independent (see MPEP §§ 802.01, §§ 806.04, §§ 808.01) or distinct as claimed (see MPEP §§ 806.05 - §§ 806.05(i)); **and**

(B) **There must be a serious burden on the examiner if restriction is required** (see MPEP §§ 803.02, §§ 806.04(a) - §§ 806.04(i), §§ 808.01(a), and §§ 808.02).

Examiners must provide reasons and/or examples to support conclusions, but need not cite documents to support the restriction requirement in most cases.

Applicants respectfully submit that it would not be a serious burden, as required in MPEP §803, for the Examiner to search and examine both SEQ ID NO: 23 and 24.

In view of the above, applicants request respectfully that the Examiner withdraw the Restriction Requirement.

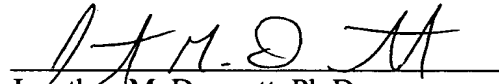
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Application No. 10/764,235

Atty. Docket No. P26,479-B USA
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A favorable action on the merits is requested respectfully. The Commissioner is authorized hereby to charge any additional fees or credit any overpayment associated with this Reply to Deposit Account No. 19-5425. A duplicate of this Reply is enclosed. A Petition for a one-month extension of time to respond to the Action is enclosed also.

Respectfully submitted,


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Reg. No. 48,608

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